

OCT 07 2009

Serial No. 10/583,967
Reply to Office Action dated July 9, 2009

Docket No. 1006/0123PUS1

REMARKS/ARGUMENTS

Favorable reconsideration and allowance of the present application is respectfully requested. Claims 1-18 are pending in the above application of which claims 1, 5 and 11 are independent. By the above amendment, claims 11-18 have been added.

THE REJECTIONS

The basis or bases for rejecting the pending claims is not clear from the record. The Office Action indicates at page 2 that "Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***." No references are identified, however, and the rejection under 35 U.S.C. 103(a) is therefore respectfully traversed.

The Office Action also indicates that claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1469358, hereinafter, "Dautry." However, the Office Action indicates on page 3 that "Dautry does not teach at least one flap part from the closed state into a partially open state or vice versa." Since at least one limitation of claim 1 is not satisfied by Dautry, a rejection under 35 U.S.C. 102(b) based on Dautry cannot be sustained. Claims 1-10 are submitted to be allowable over Dautry at least for the reason that the Office Action indicates Dautry does not satisfy all limitations of claims 1-10.

The Office Action also indicates that Dautry should be modified in some manner based on DE 10151910. A rejection under 35 U.S.C. 103(a) based on Dautry in view of DE 10151910 therefore might have been intended. Regardless of the rejection of claims 1-10 that was intended, it is respectfully submitted that claims 1-10 are allowable over Dautry and the other art of record, and reconsideration and allowance of claims 1-

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10 and examination and allowance of claims 11-18 are respectfully requested in view of the above amendments and the following remarks.

Claim 1 recites an air flow regulating device having a housing and a flap arrangement with at least two flap parts for opening and closing an opening. The flap parts are pivotable about pivot axes which run parallel to one another, and each of the at least two flap parts includes a first end, a second end and a midpoint halfway between the first end and the second end. The first ends of the at least two flap parts bear against one another in the closed state of the flap arrangement, and the pivot axis of each of said at least two flap parts is located between said first end and said midpoint of each of said at least two flap parts. The first ends of the two flap parts roll and/or slide on one another during a movement of at least one flap part from the closed state into a partially open state or vice versa. Dautry does not show first and second flaps having first ends in contact with one another as recited in amended claim 1, and claim 1 therefore should be allowable over Dautry. DE 10151910 does not address the shortcomings of Dautry. Claim 1 as amended is therefore submitted to be allowable over Dautry alone and in combination with DE 10151910.

Claims 2-4, 6-10 and 18 depend from claim 1 and are submitted to be allowable for at least the same reasons as claim 1.

By the above amendment, claim 5 has been rewritten in independent form, but the scope of that claim has not been changed. Claim 5 recites an air flow regulating device as claimed in original claim 1 wherein a stop is provided on the housing in the central region between the pivot axes on at least one side of the flap arrangement. The Office Action indicates that the "curved section of 32, 42" of Dautry's flaps 3, 4 satisfies the

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limitation of a stop. It is respectfully submitted that the curved ends of the flaps 3, 4 are not in any manner a stop on the housing as recited in claim 5. While MPEP 2111 requires examiners to give claim terms their broadest reasonable interpretation, that MPEP section also cautions that such an interpretation must be consistent with the interpretation that would be used by one of ordinary skill in the relevant art. It is respectfully submitted that one of ordinary skill in the art would not refer to the ends of two flaps as "stops" much less stops provided "on the housing" as recited in claim 1 at least because 1) the ends of the flaps are not "on a housing" and 2) the ends of the flaps do not appear to perform the function of a stop. Claim 5 is submitted to be allowable over Dautry and the other art of record for at least this reason. If the rejection of claim 5 is maintained, it is respectfully requested that the examiner provide a more detailed description in the record regarding how the flexible ends of Dautry's flaps are being interpreted as stops in view of the foregoing remarks.

NEW CLAIMS

New claims 11-18 are also submitted to be allowable over the art of record. Claim 11 recites an air flow regulating device that includes a housing having first and second flap parts for opening and closing an opening. The first and second flap elements each have a first end, a second end, a midpoint halfway between the first end and the second end and a pivot axis between the midpoint and the first end. The first and second flap parts are shiftable from a first configuration wherein the first end of the first flap engages the first end of the second flap and the first and second flap parts cover the opening to a second configuration wherein the first flap part at least partially

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uncovers the opening, and the first ends of the two flap parts engage one another as the first flap part moves from the first configuration to the second configuration. Such an arrangement is not shown or suggested by Dautry or the other art of record, and claim 11 is submitted to be allowable for at least this reason.

Claims 12-17 are submitted to be allowable at least because of their dependence from claim 11.

CONCLUSION

Each issue raised in the Office Action dated July 9, 2009, has been addressed, and it is believed that claims 1-18 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact the undersigned attorney at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,



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